

**Universal Industries Vs. Cce**

**Universal Industries Vs. Cce**

**SooperKanoon Citation :** [sooperkanoon.com/16282](http://sooperkanoon.com/16282)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jul-26-1999

**Reported in :** (2000)(68)ECC594

**Judge :** R T Lajja, A Unni

**Appellant :** Universal Industries

**Respondent :** Cce

**Judgement :**

1. The issue involved in this appeal is, whether clearances of goods falling under one heading can be claimed upto the full limit of Rs. 20 lakhs when clearances of the goods under another heading had already exceeded Rs. 20 lakhs for purposes of allowing the nil rate of duty under Notification No. 175/86, as amended. The Department has disallowed the benefit of exemption in respect of clearances of goods falling under one heading which had not yet exceeded the limit of Rs. 20 lakhs demanded thereon on the ground that the aggregate value of the clearances under both the headings had exceeded Rs. 30 lakhs. The learned DR, Shri R.K.Sharma, had contended that the issue is covered in favour of the Department in view of the Larger Bench decision of the Tribunal in the case of Rama Krishna Engg. Works v. CCE 170. The learned Counsel for the appellants has, however, drawn our attention to the Apex Court order in the case of CCE v. Khalsa Pulp and Paper Indus. Pvt. Ltd. reported in 1997 ELT A 76 in which the Apex Court has dismissed a departmental appeal against a Tribunal decision holding a contrary view. The Tribunal in the case of Khalsa Pulp and Paper Indus. Pvt. Ltd., (supra),

had relied on an earlier decision of the Tribunal in the case of EL.P.EM. Indus v. CCE . The said judgment of the Tribunal in the case of EL.

P. EM. Indus., (supra), was also taken note of by the Larger Bench in the case of Rama Krishna Engg. Works, (supra), and the said judgment was over-ruled by the Larger Bench. The learned Counsel submitted that in view of the dismissal of the Revenue's appeal by the Apex Court in the case CCE v. Khalsa Pulp and Paper Indus. Pvt. Ltd., (supra), the judgment of the Tribunal in the case of EL. P. EM. Indus., (supra) had been accepted by the Apex Court and consequently the Large Bench judgment of the Tribunal in the case of Rama Krishna Engg. Work, (supra) taking a contrary view was no longer good law. He referred to the Tribunal's recent judgment in the case of Solar Packaging Pvt. Ltd. v. CCE, Rajkot and Loomba Laminates v. New Delhi 1999 (30) RLT 867 (CEGAT), in which the Tribunal had held that in view of the Apex Court judgment referred to above, the decision in the case of Rama Krishna Engg. Works (supra), was no longer good law.

2. The learned SDR had pointed out that the Apex Court decision dismissing the Department's appeal in the case of Khalsa Pulp and Paper Indus. Pvt. Ltd., supra, was not a reasoned order and could not be relied upon as taking a different view from the view taken in the Tribunal's Larger Bench order in the case of Rama Krishna Engg. Works.

He cited the Gujarat High Court judgment in the case of Satellite Engg.

Ltd. v. Asstt. Collector of Central Excise in support of his contention.

3. We have taken note of all the submissions and the case law cited. We note that the Tribunal in the case of Solar Packaging Pvt. Ltd., has taken a view that having regard to the Apex Court order dismissing the Department's appeal in Khalsa Pulp and Paper Indus. Pvt. Ltd., the Larger Bench decision in the case of Rama Krishna Engg. Works, is no longer good law. We follow the said order of the Tribunal and allow this appeal with consequential relief, if any, under law.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**